

# Thoughts on Pricing Legal Services

By Richard G. Stock, M.A., FCIS, CMC, Partner with Catalyst Consulting

This is the twenty-second in a series of articles about how corporate and government law departments can improve their performance and add measurable value to their organizations.

The Association of Corporate Counsel (ACC) released a comprehensive [report](#) benchmarking legal operations in March 2020. The law department maturity model uses three stages to survey 15 functions, with one of these being *External Resources Management*. The findings were telling. Only 11 % of the 316 participants reported they were in an advanced stage for this function.

Two of the 13 sub-functions for external resources management are noteworthy when considering the proportion of companies that have no measures / protocols in place

- 65 % of the 316 companies reported that Alternative Fee Arrangements (AFAs) are not considered and are not heavily used in all matters
- 69.2 % of law departments do not rely on systems to smoothly incorporate / support AFAs in billings and metrics.

Our last article on *Critical Preparations* maintained that “the pathway to achieving significant reductions in legal expenses rarely includes greater discounts on hourly-based fee arrangements because this offers marginal savings to companies that have had formal sourcing programs in place for more than 10 years.” We recommended that companies set formal financial targets as part of a written pricing plan before drafting a Request for Proposals.

It is worth remembering that the “best price” for a portfolio of legal work depends on a combination of factors, including

- multi-year demand forecasting that reflects estimates, not guarantees, of work volumes

- the fewest possible number of firms, otherwise called convergence
- agreement on staffing ratios and preferred delegation distributions for each portfolio and category of work
- a commitment to rigorous matter budgeting by task / phase and by timekeeper

### **Pricing Expertise**

When it comes to pricing, managing the expectations of all stakeholders, including law firms, requires considerable preparation. This is essential when the objective is to prioritize non-hourly fee arrangements and make AFAs the predominant rather than the occasional method of pricing legal work. It is true that most companies use apply non-hourly fee arrangements for part of the work referred to external counsel. However, for most companies, and for many law firms, AFAs still represent a significant shift away from variations of the hourly rate for most of the work.

A growing number of law firms have introduced the role of pricing specialist to respond to RFPs, and in many cases to lead the firm’s pricing negotiations. Some firms have 5 to 10 years of experience working systematically on pricing with dozens of clients. Their knowledge of law firm economics is sophisticated. It follows that companies should match that expertise.

Pricing legal work requires much more than proficiency in AFAs. Companies should possess a practical understanding of law firm economics and the related profitability variables, of law firm cultures, and of law firm compensation systems for partners and associates for the firms that they use. These responsibilities

should rest with at least one senior person in the legal department and one in the procurement department.

### Specific Questions

Several quite specific pricing-related statements and questions should be asked of each law firm as part of the RFP. I have used text such as the following

- “The firm is asked to bill a fixed fee or occasionally a variation of hourly rate or a hybrid fee arrangement. The preferred arrangement for the reference period is to be finalized during our discussions with you in the coming weeks.”
- “What is your firm’s pricing philosophy for the next 3 or 4 years?”
- “What would be your preferred partnering and pricing arrangements with us for the period covered by this RFP or ISP?”
- “The firm is encouraged to propose innovative methods to mitigate costs. This can include teams with more members based in less expensive markets where your firm has offices or where you have arrangements with correspondent firms. We will not compromise unique legal expertise. However, we are actively seeking less costly arrangements from you as a partnering firm.”

Unmanaged practice patterns in law firms add at least 10 % to the effective rate. The RFP should prescribe “optimal staffing distributions” for categories and portfolios of work. Firms should be asked to propose compact and stable teams of senior and junior professionals as well as paralegals to cover the reference period. Law firm responses to the

RFP should state the extent of their support and the related conditions for the application of these optimal staffing distributions in pricing a category of legal work.

### Choosing Alternative Fee Arrangements

Some have said that AFAs should stand for “appropriate” rather than “alternative” fee arrangements. This leaves the door wide open to default to traditional variations of hourly rates. It is also at variance with making non-hourly fee arrangements the predominant, albeit non-exclusive, approach to pricing legal work. Over the years, corporate law departments have selected pricing that they believed suitable for individual matters. Nevertheless, today more than 80% of legal work referred to external counsel is still priced on a variation of hourly rates. This is not surprising, since hourly rates require a minimum amount of change to operating practices in the company and in the law firm. However, this is not likely to be the most cost-effective pricing.

Getting companies and their law firms “off the clock” and focused on the company’s priorities suggests that the choice of pricing should

- stimulate *efficiency* in legal work, enough to reduce the hours needed to support a portfolio of matters by at least 10 % over time.
- reward the *effectiveness* of legal work, as measured by the results anticipated by the client
- promote *innovation* initiatives that pass the **S.M.A.R.T.** test and which improve efficiency and / or effectiveness.

The leadership of legal departments should

ensure that they are both strategic and proficient when pricing legal services. This function should be considered a specialized one within the company and likely concentrated with a trinity of one senior lawyer, legal operations and procurement.

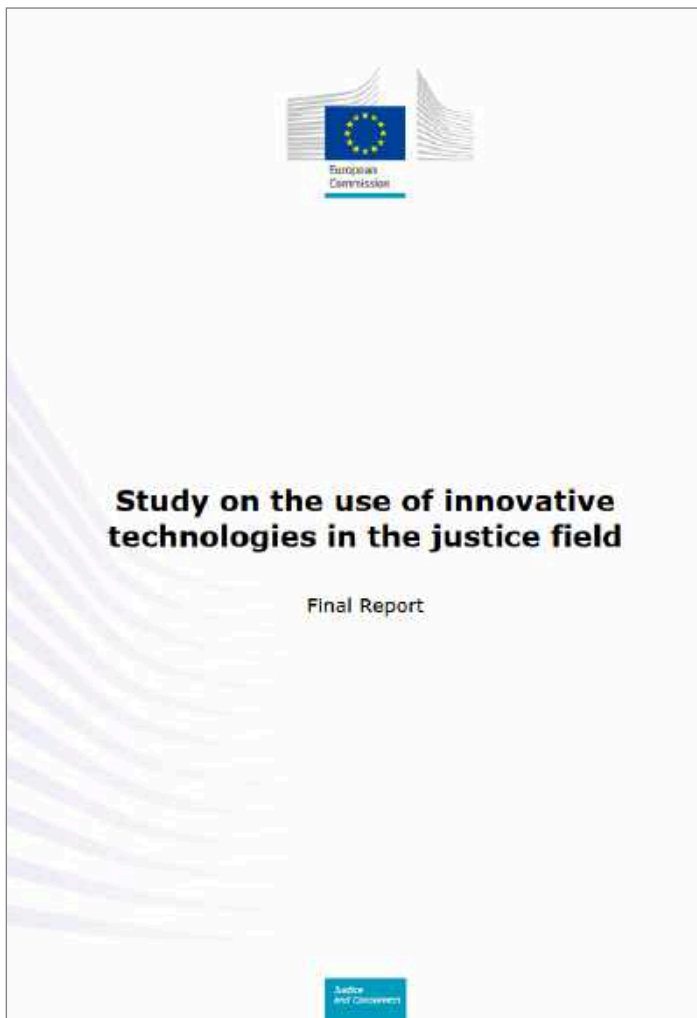
### About the Author

Richard G. Stock, M.A., FCIS, CMC is a partner with **Catalyst Consulting**. The firm has been providing legal management advice to corporate and government law departments around the world for 25 years. Richard can be contacted at [rstock@catalystlegal.com](mailto:rstock@catalystlegal.com).

---

## Study on the use of innovative technologies in the justice field

In the White Paper on Artificial Intelligence (AI), the EU recognises the need to step up actions aiming to build an ecosystem of excellence supporting the development and acceptance of AI across the EU economy and public administration.



The study identified 8 categories of business problems that the projects aim to solve and mapped these problems to 8 business solution categories. Completed or ongoing projects, which ‘exceed’ and ‘meet’ the stakeholders’ expectations, are suggested for exchange of good practices. In conclusion, the study suggests horizontal actions as a way forward: (a) Coordination at EU level of the efforts and activities; (b) Collaboration and experience sharing; (c) Strengthening existing partnerships and networks; and (d) Supporting mechanism for legal professional organisations.



DS0220605ENN.en.pdf

Download PDF • 5.97MB